

OGC HAS REVIEWED.

The Speaker
House of Representatives
Washington, D. C.

My dear Mr. Speaker:

The Department of Justice recommends the further amendment of the Foreign Agents Registration Act of 1938, as amended (56 Stat. 248), in several particulars.

First, it is suggested that section 1(b) be amended by adding thereto a new paragraph (6), the purpose of which would be to bring within the definition of "foreign principal" certain organizations which are not now included. For example, agents of a domestic organization, which is financed, controlled, supervised or directed by a foreign government or foreign political party, are not required to register unless it can be established that such domestic organization is "subsidized" by a foreign principal. The proposal will bring such agents within the purview of the registration requirements of the Act.

Section 3 of the Act exempts certain persons from the registration requirements set out in section 2. Subsection (a) of section 3 presently exempts from registration diplomatic or consular officers engaged in propaganda activities within the scope of their functions. Since the Department of State has ruled that propaganda activities are, in the language of the subsection, "within the scope of the functions" of such officers, there is no disclosure required as to a considerable amount of propaganda activity conducted in the United States by such persons. The amendment of section 3(a) here proposed will achieve the desired disclosure without affecting the personal diplomatic status of the persons concerned.

It is also proposed that section 3(d) of the Act should be amended to define more exactly the nature of the activity engaged in or to be engaged in by an agent of a foreign principal which will entitle him to exemption from registration under the Act. Such an amendment will promote uniformity of administration, and make the subsection clearer.

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In order to avoid any possibility that the labeling and filing requirements of the Act, contained in subsections (a) and (b) of section 4, may be held to be applicable only when an agent of a foreign principal disseminates political propaganda which he believes will be, or which he intends to be, disseminated or circulated among two or more persons, it is suggested that the subsections be amended so as to delete the language upon which such an interpretation might possibly be based.

Finally, it is suggested that a new subsection (c) be added to section 4 to give legislative sanction to what is presently a rule promulgated by the Attorney General. The rule, designed to plug a possible loophole in the disclosure provisions of the Act, subjects an agent of a foreign principal physically outside of the United States to the registration, filing, and labeling provisions of the Act in the event such agent disseminates political propaganda within the United States through the mails or any other instrumentality of interstate or foreign commerce. This rule is now being utilized by the Post Office Department as its legal basis for declaring nonmailable propaganda mailed by an agent of a foreign principal outside the United States to persons within the United States, and as the basis upon which the Bureau of Customs is resting its authority for the seizure of propaganda material arriving in the United States by freight or express from agents of foreign principals located outside the United States and destined to persons not registered with this Department within the United States. Consequently, it is considered desirable that this rule be given legislative approval.

A draft bill which would effectuate the recommendations herein made is attached for your consideration.

The Bureau of the Budget has advised that there is no objection to the submission of this legislation.

Sincerely,

A. Devitt Vanach
Deputy Attorney General